

## 1 UNITED STATES DISTRICT COURT

## 2 EASTERN DISTRICT OF TEXAS (SHERMAN DIVISION)

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 ERIC RYAN ROBERTS,

7 Defendant.

Case No. 4:20-cr-00314-ALM-  
CAN-1Sherman, Texas  
March 18, 2021  
12:40 p.m.8  
9 TRANSCRIPT OF MOTIONS HEARING  
BEFORE THE HONORABLE CHRISTINE A. NOWAK  
10 UNITED STATES MAGISTRATE JUDGE

## 11 APPEARANCES:

For the Plaintiff:

Ernest Gonzalez, Esq.  
U.S. Attorney's Office  
101 E. Park Boulevard  
Suite 500  
Plano, TX 75074

14 For the Defendant:

Thomas W. Mills, Jr., Esq.  
Tom Mills Criminal Law, PLLC  
McKinney Place  
3131 McKinney Avenue  
Suite 800  
Dallas, TX 75204

17 Court Recorder:

Digital Recording

18 Transcription Service:

Chris Hwang  
Abba Reporting  
PO Box 223282  
Chantilly, Virginia 20153  
(518) 302-677224 Proceedings recorded by electronic sound recording;  
25 transcript produced by transcription service.

1 (Call to order at 12:40 p.m.)

2 THE COURT: At this time, the Court's going to go  
3 ahead and call cause number 420CR314, the United States of  
4 America v. Eric Ryan Roberts. If I could have an appearance at  
5 this time on behalf of the Government?

6 MR. GONZALEZ: Your Honor, Ernest Gonzalez for the  
7 Government. The Government's ready to proceed.

8 THE COURT: Thank you.

9 If I could have an appearance on behalf of Mr.  
10 Roberts?

11 MR. MILLS: Tom Mills, representing Mr. Roberts.

12 THE COURT: Thank you, Mr. Mills.

13 And Mr. Roberts, sir, can you please tell me your  
14 full name?

15 THE DEFENDANT: Eric Roberts.

16 THE COURT: Thank you.

17 Now, gentlemen, we were scheduled to proceed here  
18 today in this cause on the motion to compel filed by Mr. Mills  
19 on Mr. Roberts' behalf, same Docket Number 80.

20 The parties have further agreed that we may proceed  
21 to discuss Docket Number 94, which is Roberts' second motion  
22 filed under seal for production of discovery. So we will be  
23 addressing here today both Docket Number 80, as well as 94.

24 And I will just note for purposes of the record, the  
25 Court reviewed in advance of today's hearing all the filings

1 relevant to each of those reference motions, including as well  
2 Dockets 82, 88, 90, and 93.

3 The parties have an opportunity to meet and confer at  
4 length here today in light of the Court's delay in reaching  
5 this conference regarding each of the issues that were  
6 presented by Mr. Roberts' Motions to Compel.

7 And the Court's understanding at this juncture  
8 following each of those communications by the parties is that  
9 you all were able to reach agreement on each and every one of  
10 the issues that were set forth in the Motion to Compel. And as  
11 a result at this time, we're going to go ahead and go through  
12 each of those issues by one -- one by one and just have you all  
13 state the agreements that have been reached.

14 At the outset, I will note it's the Court's  
15 understanding that the Government has prepared a second hard  
16 drive for Mr. Roberts and his counsel, Mr. Mills.

17 It's believed hopefully that that hard drive will be  
18 available later today. And it's Mr. Mills' intention to send a  
19 courier to the United States Attorneys' Office to pick it up  
20 once he's notified that it is ready.

21 Mr. Gonzalez, is that accurate?

22 MR. GONZALEZ: That is correct, Your Honor.

23 THE COURT: And Mr. Mills, do you concur?

24 MR. MILLS: I do, Your Honor.

25 THE COURT: So turning to the issues that were the

1 subject of the Motion to Compel, being Docket Number 80, first,  
2 there was an issue as it related to the bills of particulars.  
3 Defendant averred that it only had the third and fourth bills  
4 of particular and requested production of the first and second.

5 The Government has produced the first bill of  
6 particulars and has advised that there is in fact no second,  
7 that no second bill of particulars exists.

8 Mr. Gonzalez, is that an accurate statement?

9 MR. GONZALEZ: That is correct, Your Honor.

10 THE COURT: And, Mr. Mills, based upon that  
11 understanding, there has been an agreement reached as it  
12 relates to issue number 1 and that's no longer a disputed item  
13 for the Court to determine; is that correct?

14 MR. MILLS: That is correct.

15 THE COURT: Then let's go ahead and move to issue  
16 numbers 2 and 3. I'll take those up together. Issue number 2  
17 is the names of the people indicted and known to the grand jury  
18 that Mr. Roberts is alleged to have conspired with, as well as  
19 an unredacted copy of the indictment.

20 The Court's understanding that in light of recent  
21 arrests, the parties have reached agreement as it relates to  
22 both issues 2 and 3.

23 Is that correct, Mr. Gonzalez?

24 MR. GONZALEZ: Yes, Your Honor.

25 THE COURT: And Mr. Mills?

1 MR. MILLS: Yes, Your Honor.

2 THE COURT: And turning to issue number 4, issue  
3 number 4 involves calculations and data to determine there was  
4 a conspiracy to distribute more than 90,000 kilograms of a  
5 substance containing a detectable amount of marijuana.

6 Based upon the Court's understanding of the parties'  
7 discussion, the 90,000 kilograms represents an amount  
8 attributable to the total or entire conspiracy.

9 And the parties have reached agreement that the  
10 Government, by and through Mr. Gonzalez, will turn over to Mr.  
11 Roberts all documentation that identifies seizures, which would  
12 include things such as lab reports.

13 Mr. Gonzalez, have I accurately stated the agreement  
14 reached?

15 MR. GONZALEZ: That is correct, Your Honor.

16 THE COURT: Anything further from that should be  
17 placed on the record as it relates to the agreement in  
18 connection with issue number 4?

19 MR. GONZALEZ: No, Your Honor. It was understood  
20 that it refers to any documents that indicate quantities, as  
21 well as any supporting documentation as to those quantities  
22 would be provided to Defense counsel. We discussed possible  
23 testimony as to those quantities. That would not be turned  
24 over at this time.

25 THE COURT: All right, thank you.

1           And, Mr. Mills, does that accurately reflect the  
2           agreement that has been reached, sir?

3           MR. MILLS: It does reflect.

4           THE COURT: And so, as a result of that, at this  
5           time, that's no longer a disputed issue between the parties; is  
6           that correct?

7           MR. MILLS: It is correct.

8           THE COURT: Then let us go ahead and turn to issue  
9           number 5. Issue number 5 as stated in the motion was  
10          documents, notes, surveillance videos and any other data  
11          corroborating or proving that Mr. Roberts sold or conspired to  
12          sell marijuana to an undercover person.

13          It's the Court's understanding that following  
14          communications between both the Government and Defense counsel,  
15          that it was identified that that statement would have been more  
16          accurately stated as instead of to an undercover person, a  
17          cooperating defendant post-arrest. And all documentation  
18          surrounding that arrest is being provided to Mr. Mills.

19          Is that correct, Mr. Gonzalez?

20          MR. GONZALEZ: That is correct, Your Honor.

21          THE COURT: All right, Mr. Mills?

22          MR. MILLS: It is. It is. And I maybe should wait  
23          till you're finished, but all of this is subject to me, as the  
24          Court knows, Mr. Gonzalez's looking at on the hard drive,  
25          second hard drive, and seeing these are other things -- are

1 other things I can't find or need.

2 THE COURT: Correct, but it's your understanding at  
3 this time that Mr. Gonzalez has agreed to provide to you all  
4 documentation surrounding the arrest of the cooperating  
5 Defendant?

6 MR. MILLS: Correct.

7 THE COURT: And so, that's no longer a disputed issue  
8 that you require the Court's attention --

9 MR. MILLS: Yes.

10 THE COURT: -- require the Court's relief?

11 MR. MILLS: Yes, Your Honor.

12 THE COURT: Okay, all right, so we're going to go  
13 ahead and turn to issue 6. Issue 6 is documents or a summary  
14 of testimony that establishes venue in the Eastern District of  
15 Texas. There are actually a number of issues related to venue  
16 that the parties have raised.

17 So just generally as it relates to that, Mr. Gonzalez  
18 has my understanding represented that to the extent there are  
19 documents, including receipts, toll records, or hotel bills  
20 categorized as miscellaneous documents, he anticipates those  
21 would be included in the second hard drive that will be  
22 provided to Mr. Mills and that he would further seek to  
23 establish venue by and through testimony from witnesses that  
24 there was travel through the Eastern District of Texas.

25 So as it relates to the more general issue of venue,

1 my understanding is the parties have reached agreement that  
2 those documents will be provided or have been provided to Mr.  
3 Mills.

4 As it relates to the 924(c), there's also a question  
5 as to whether or not venue is appropriate related to the  
6 firearm as it -- because it was seized in the Northern District  
7 of Texas.

8 And Mr. Mills has noted to the Court that while with  
9 his and Mr. Gonzalez's agreement, he may be in possession of  
10 all documents related to the issue of venue, he is reserving  
11 the right to challenge venue both on the 924(c) and other  
12 charges in this case.

13 Let me ask Mr. Gonzalez. Have I accurately stated  
14 the agreement that's been reached by the parties on the venue  
15 issues?

16 MR. GONZALEZ: That's correct, Your Honor.

17 THE COURT: And Mr. Mills?

18 MR. MILLS: Yes, Your Honor.

19 THE COURT: And so, there's no further requested  
20 relief from the Court on the discovery issues?

21 MR. MILLS: Correct.

22 THE COURT: All right, then let's turn to issue 7.  
23 Issue 7 is copies of texts between a Mr. Terry and Mr. Roberts  
24 about large-scale marijuana and other THC transactions.

25 My understanding is that included in that second hard



1 drive are going to be phone dumps. And the phone dumps will  
2 include any texts that are available.

3 Is that correct, Mr. Gonzalez?

4 MR. GONZALEZ: Yes, Your Honor. And Mr. Mills and I  
5 have had several conversations about this, why the Government  
6 hadn't turned over that particular phone dump before, but he  
7 understood why, but it is being duplicated and will be  
8 available for his office to pick up later today or Friday  
9 morning at the latest.

10 THE COURT: All right. And so, let me just confirm,  
11 Mr. Mills, is that an accurate summary of the agreement that  
12 has been reached?

13 MR. MILLS: Yes, Your Honor.

14 THE COURT: And with that agreement, are there any  
15 other disputed issues that you're asking for the Court to  
16 resolve?

17 MR. MILLS: Not at this time, Your Honor.

18 THE COURT: All right, that concludes each of the  
19 issues that were presented by Docket Number 8.

20 Certainly, Mr. Mills, I understand that each of the  
21 agreements that have been reached here today are without  
22 prejudice to your right to re-raise the issue of any future  
23 discovery, once you've had a full and fair opportunity to  
24 review the second hard drive that will be provided to you  
25 either later today or tomorrow.

1           We do need now, gentlemen, to turn and to discuss  
2       Docket Number 94, which is the second motion, which relates to  
3       documents from Mexico.

4           My understanding following conference with each of  
5       the parties is that the Government has represented it does not  
6       have any documents from Mexico, but that again, any documents  
7       that are relevant to the case are being provided to Mr. Mills  
8       on the second hard drive.

9           Mr. Gonzalez, is that an accurate recitation of the  
10      agreements reached?

11           MR. GONZALEZ: Yes, Your Honor.

12           THE COURT: Mr. Mills?

13           MR. MILLS: Yes, from Mexico and involving either  
14      border crossings or financial transactions to and from Mexico,  
15      but Mr. Gonzalez has addressed that as well and simply says, to  
16      his knowledge, he doesn't have anything or the Government  
17      doesn't have anything.

18           THE COURT: And so, that with that understanding of  
19      the agreements between yourself and Mr. Gonzalez, are there any  
20      further issues or disputes that you have, that you're asking  
21      the Court to resolve at this time?

22           MR. MILLS: Not at this time.

23           THE COURT: Okay, so as a result of that, Mr. Mills,  
24      I believe that that concludes each and every one of the issues  
25      that you've raised in each of Docket Number 80 and Docket

1 Number 94.

2 It would be the Court's intention to deny each of  
3 those Motions to Compel as moot in light of the agreements that  
4 have been reached, reserving to you obviously the right to re-  
5 raise the issues should there be any, following your review of  
6 that second hard drive. Is there any opposition, sir, to the  
7 Court proceeding in that manner?

8 MR. MILLS: No, Your Honor.

9 THE COURT: Then I do deny each of those Motions to  
10 Compel as moot at this time in light of the agreements that are  
11 reached. And I will again just remind you to the extent you do  
12 desire to continue challenge venue, that a separate motion will  
13 be required as it relates to those particular issues.

14 Let me ask at this time, Mr. Gonzalez, anything  
15 further as it relates to Mr. Roberts?

16 MR. GONZALEZ: Not now, Your Honor.

17 THE COURT: Anything further, Mr. Mills, at this  
18 time?

19 MR. MILLS: Let me just raise this. We've discussed  
20 a joint motion regarding -- because of largely based on the  
21 hard drive, the second hard drive, but a motion regarding  
22 complex litigation and a trial continuance that we will discuss  
23 this and file appropriate documents.

24 MR. GONZALEZ: That's right, Your Honor. I indicated  
25 to Mr. Mills that I would be filing a motion designating this

1 case as complex.

2 Obviously, I have to get the approval of the other  
3 attorneys that represent co-defendants, but I will be filing  
4 that.

5 And also, I've indicated to Mr. Mills that I don't  
6 have an objection to a continuance on this case, so that he  
7 would have ample opportunity to review any discovery.

8 THE COURT: All right, and Mr. Mills, any formal  
9 motion for continuance that you filed in light of Mr.  
10 Gonzalez's statement, you can include that on the certificate  
11 of conference.

12 I will just tell you, each of those particular  
13 motions designated in a case is complex. And continuing trial  
14 date, those are motions that will need to be signed by the  
15 District Court. And so, I can't give you any relief or advise  
16 you as to how those motions will be ruled on at this time. Do  
17 you understand?

18 MR. MILLS: I do.

19 THE COURT: All right, there being nothing further  
20 then, gentleman, you are excused. Thank you all, so much for  
21 your patience with us today. We are very appreciative.

22 MR. GONZALEZ: Thank you.

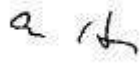
23 MR. MILLS: Thank you, Your Honor.

24 THE COURT: Thank you.

25 (Proceedings concluded at 12:50 p.m.)

**CERTIFICATE**

I, Chris Hwang, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

April 22, 2021

Chris Hwang  
Transcriber

Date